

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROBERT N. COGAR,

Plaintiff,

v.

Civil Action No. 3:05-CV-119

MICHAEL ASTRUE,
Commissioner of Social Security,

Defendant.

**REPORT AND RECOMMENDATION THAT MOTION FOR ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT BE GRANTED AND ORDER
VACATING EVIDENTIARY HEARING AND ARGUMENT**

On February 26, 2007, Plaintiff filed a motion for attorney fees under the Equal Access to Justice Act (docket 19). Plaintiff sought \$2,719.89 in attorney fees. On March 12, 2007, Defendant filed a response. Defendant stated it did not object to the motion and would pay the sum sought by Plaintiff upon an appropriate Court order. Accordingly, the Undersigned RECOMMENDS that Plaintiff's motion be GRANTED. Furthermore, the evidentiary hearing and argument previously set for August 22, 2007, is hereby VACATED.

Any party who appears *pro se* and any counsel of record, as applicable, may, within ten (10) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should be submitted to the District Court Judge of Record. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation.

DATED: August 15, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE